

2012 WL 3046743 (Ga.) (Appellate Brief)  
Supreme Court of Georgia.

Kaiser FORD, Appellant,  
v.  
Ruby Lee GLOSTER (DEceased), Appellee.

No. A12A2018.  
June 19, 2012.

Kaiser Ford Morison Outreach, Co-Trustee Tanenankhaha Andrews, Co Trustee Submitted on June 19, 2012

**Joint Brief of Appellants**

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#### \*A ISSUES PRESENTED

1. Court's Lack of Jurisdiction

2. Failure to State a Claim

3. Fraud on the Court
4. Perjury in Pleadings
5. Court's Failure to Rule
6. Violation of Due Process of Law.
7. Court's Failure to Rule
8. Hindering Appellant's Right to Appeal
9. Insufficient Judgment
10. Violation of Equal Protection Under the Law

#### **\*1 I. Statement of Facts**

The appellee was trying to contact one of her nephews and eventually reached appellant Kaiser Ford for assistance with some personal business and to assist her with her last will and testament. The appellee expressed a sense of urgency to have the appellant Kaiser Ford come to Georgia because her adopted daughter (LaRhonda Gloster Barrett) was badly mistreating her and the appellee did not trust her adopted daughter because she was scheming to place the appellee and her husband (now deceased) into a nursing home to take control of the property subject to this appeal.

There were allegations of **elderly abuse** that were being investigated by the State of Georgia for which the appellants have no personal knowledge as to the disposition of the case. (Caseworker: Fred Glass; Georgia Department of Aging and the **Elderly**). On May 5, 2010 the appellee asked the appellant Kaiser Ford to take her and her husband too see an attorney and both requested it to be done in secret and not divulged to their adopted daughter and further requested that no documents in regards to this business be revealed in any manner or sent to the appellee's private home because the adopted daughter was intercepting all the appellee's correspondence and hiding it from the appellee and her husband. On May 6, 2010 appellant Kaiser Ford took appellee and her husband to see an attorney and accompanied them during the consultation. The attorney specifically asked the appellee why not give power of attorney to your adopted daughter and the appellee's response was, "I do not trust her". The appellee and her husband specifically said that they wanted the appellant Kaiser Ford as power of attorney. All documents were signed on May 7, 2010.

**\*2** The adopted daughter started to become very suspicious of what the appellee was doing and began to prevent the appellant Kaiser Ford and appellee from meeting to secure the appellee's property. The appellee had to sneak to call the appellant Kaiser Ford and told him what to place into her will and finally after several attempts of avoiding the detection of the adopted daughter the appellee was able to read over her last will and testament and sign it on May 10, 2010 and at that time the appellee instructed the appellant Kaiser Ford what to do before and after the last will testament. First, the power of attorney was given to the appellant Kaiser Ford for the purpose of doing what the appellee could not do on her own because she was under duress and feared for her safety as it related to her adopted daughter and if the appellee would have confided in her adopted daughter in regards to the property then there would have been possible retaliation against the appellee since the adopted daughter was the primary care giver. Second, the last will and testament was to serve as a safety net for the appellee if the first set of instructions for the appellant Kaiser Ford to transfer the deeds were unable to be accomplished via the power of attorney.

The appellant Kaiser Ford returned to Georgia on July 1, 2010 after preparing the fiduciary warranty deeds in Texas and contacted the appellee and went over the documents to be filed and the appellee told the appellant Kaiser Ford to file them and

stated that as a safety precaution if her adopted daughter was to discover what has been done a safety word should be established just in case the appellee is forced to sue the appellant Kaiser Ford. The appellee stated that if she does not mention the last will and testament that will be the sign that the appellee is under duress and that her adopted daughter is behind the suit.

**\*3** On July 2, 2010 the fiduciary warranty deeds were filed by the appellant Kaiser Ford. August 9, 2010 appellee's husband John Gloster passed away. Approximately 4 to 5 weeks later the appellee called the appellant Kaiser Ford in September 2010 and asked to transfer the property back into her name. There was no mention of a last will and testament, so the appellant Kaiser Ford took it as a sign that the appellee was under duress by her adopted daughter. The appellee knew the appellant Kaiser Ford had no control over the property but the adopted daughter did not.

So when the appellee's civil case was filed on February 15, 2011 the complaint reflected the views of the appellee's adopted daughter because everything was done without the adopted daughter's knowledge to prevent her from stealing it secretly from under the appellee. The appellee's attorney drafted a complaint solely on the information given to him directly from the adopted daughter the party who had no knowledge of the deed transfer and the appellee was coerced and used as a facilitator of this lawsuit in attempt to steal the properties back by fraudulent claims through the legal system.

## II. Statement of Case

1. Appellee filed a frivolous complaint to set aside deeds with damages for fraud, breach of fiduciary duty and illegal transfer of real property without consent on February 15, 2011. **(R-05)**.

2. Appellant Kaiser Ford filed a combined original answer, verified plea, affirmative defenses, notice of special appearance and a motion for special exceptions disputing the **\*4** frivolous claims and provided evidence. Establishing that appellee was committing perjury. **(R-42)**

3. Appellee's attorney immediately filed a motion for leave to take depositions within 60 days after receiving supporting evidence of appellee's perjury. **(R-52)**. The appellee's motion was granted. **(R-61)**. According to clerk's record there was notice to take deposition filed **(R-63)**, but a copy of the deposition was never provided to the appellants.

4. Appellant Tanenankhaha Andrews, co-trustee with appellant Morison Outreach filed an affidavit of non-trustee/beneficiary status of appellant Kaiser Ford **(R-66)** to rebut appellee's attorney claims of the trustee status of appellant Kaiser Ford.

5. Appellant Tanenankhaha Andrews, co-trustee with appellant Morison Outreach, pro se filed a motion to dismiss for lack of jurisdiction with supporting exhibits **(R-69)** because the appellee's original complaint **(R-05)** does not state a claim in which relief can be granted against appellant Tanenankhaha Andrews, co trustee with appellant Morison Outreach. Additionally, appellant Tanenankhaha Andrews and Morison Outreach were never properly served as non-resident/foreign-entity fiduciaries in accordance with **O.C.G.A 53-12-321 Foreign Entities acting as trustees, O.C.G.A. 53-12-320 Non-residents acting as trustees**.

6. Appellee's attorney claims a fiduciary breach of a general power of attorney in which appellant Kaiser Ford was appointed and it was prior to the fiduciary warranty deed transfer of real property to appellant Morison Outreach, co-trustee in the trust.

**\*5** 7. The appellee's response to the motion to dismiss for lack of jurisdiction **(R-97)** sought to negate the proper order of the events that established a timeline of the appellee's alleged recollection of events that were not originally disclosed to the appellee's attorney by the appellee and in an attempt to consolidate the frivolous claims the appellee's attorney distorted the clear meaning of each transaction and the separation of each appellant and their proper role in their respective transaction before the court.

8. The appellant Tanenankhaha Andrews and Morison Outreach, trustees motion to dismiss for lack of jurisdiction (**R-69**) was not ruled on by the court. The court failed to rule when instructed to rule by the appellants. (**R-69 Section A under #7**)

9. Appellee filed a motion for summary judgment by brief (R-106) stating that the deeds are invalid and defective because appellant Morison Outreach, trustee is not a valid individual or entity to hold title under Georgia law and that there were no genuine issues of material facts that existed.

10. Appellant's Tanenankhaha Andrews and Morison Outreach, trustees and appellant Kaiser Ford filed oppositions to the motion for summary judgment (**R-139, 150**) because the failed in its duty to rule on any of the appellant's previous motions of special exceptions, special appearance combined with appellant Kaiser Ford original answer (**R-42**) and Motion to dismiss for lack of jurisdiction (**R-69**). The court erred in granting appellee's motion for summary judgment and failed in its duty to consider and rule on any of the appellant's motions that denied the appellants the opportunity to appeal on the required rulings.

**\*6** 11. The trial court granted summary judgment under false pretenses when the appellee's attorney self drafted an order and presented it to another judge who appears who did not review the record before signing such an order. The court failed to question the appellee's attorney motives on why he was presenting an order to be signed by a different judge other than the original presiding judge from the record. The appellee's attorney judged hopped to get the desired result as quickly as possible to avoid being questioned on following the law and proper procedures of due process.

12. The appellant's all appealed (**R-01, R-1A**) and the record clearly reflects that the appellees complaint is frivolous and that it was brought in bad faith through acts of coercion, perjurious testimony and hear-say oral statements from third parties including the appellee's attorney in order to illegally grasp jurisdiction over non-resident fiduciaries and impair the appellee's true prior acts to protect herself and her property from being stolen by her adopted daughter.

### III. Jurisdiction and Enumeration of Errors

Pursuant to **Rule 22(a)** and **O.C.G.A. § 5-6-40**, the enumeration of errors shall be part 2 of the appellant's brief (b) the enumeration of errors shall contain a statement of jurisdiction....

#### Part 1: Statement of Jurisdiction

The Court of Appeals rather than the Supreme Court has jurisdiction of this case on appeal for the reason that jurisdiction is not specifically conferred upon The Supreme Court by **\*7 Article VI, Section VI, paragraphs II or III of the Georgia Constitution of 1983** and jurisdiction is therefore in the Court of Appeals of Georgia pursuant to **Article VI, Section VI, paragraph III of the Georgia Constitution of 1983**.

#### Part 2: Enumeration of Errors as per **O.C.G.A. § 5-6-40**

1. The trial court erred in granting appellee's motion for summary (**R-160**). The judgment is based on hearsay by the appellee's attorney and it is not supported under the Georgia law of equity or by any prima facie evidence in the record showing that no material issues exist.

2. The court erred for not ruling on the appellant's Tanenankhaha Andrews and Morison Outreach, trustees motion to dismiss for lack of jurisdiction (**R-69**).

3. The court erred for not ruling on the appellant Kaiser Ford motion for special exceptions combined with notice of special appearance challenging personal jurisdiction within appellant's original answer. (**R-69**).

#### IV. Arguments and Citations of Authority/Standard of Review

1. **Doctrine of Stare Decisis:** The Supreme Court of Georgia has “reiterated the need to adhere to precedent so as to promote the rule of law and its predictability”, see Judge Miller concurring specially in [Fleet Finance &c. v. Jones](#), 263 Ga. 228, 232 (3) (430 SE2d 352) (1993) “The application of the Doctrine of Stare Decisis is essential to the performance of a well-ordered system of jurisprudence.” (Citations omitted.) [Etkind v. Suarez](#), 271 Ga. 352, 357 (5) (519 SE2d 210) (1999).

\*8 2. **Pro Se Litigants:** “The general rule is that pro se pleadings are held to less stringent standards than pleadings that are drafted by lawyers” (Citation and punctuation omitted.) [Hickey v. Kostas Chiropractic Clinics, P.A.](#), 259 Ga. App. 222, 223 (576 SE2d 614) (2003). The standard review is whether that all pleadings from the trial court were properly considered by the court and whether there were notices hindering the trial court in any way from discharging its duties to both parties.

3. **Grant of Summary Judgment:** Trial Court Error Section III Part 2 Error 1

a) On appeal of a grant of summary judgment, the appellate court must review the evidence de novo to determine whether the trial court erred in concluding that no genuine issue of material fact remains and that the party was entitled to judgment as a matter of law. [Rubin v. Cello Corp.](#), 235 Ga App.250 (510 SE2d 541) (1998). Evidence was lacking and insufficient to support the judgment of the trial court in this case. The appellee's attorney induced the trial court to sign an order that he knew was a fraudulent misrepresentation of the facts from the record, in order to get equitable relief for the appellee in which she was not entitled to in violation of [O.C.G.A. 23-2-29](#) When equitable interference not authorized -- Failure to exercise diligence; ignorance of fact absent fraud: If a party, by reasonable diligence, could have had knowledge of the truth, equity shall not grant relief; nor shall the ignorance of a fact known to the opposite party justify an interference if there has been no misplaced confidence, misrepresentation, or other fraudulent act.

\*9 The trial court's order granting the appellee's motion for summary judgment (**R- 160**) is vague and very misleading because it is not supported by the Georgia Code under **Title 23 Equity Chapter 2- Grounds for equitable relief Articles 1 thru 7** or any case law that authorizes equitable relief pursuant [O.C.G.A. 23-2-29](#) and [O.C.G.A. 23-2-27](#) When equitable interference not authorized -- Mere ignorance of the law on the part of the party himself, where the facts are all known and there is no misplaced confidence and no artifice, deception, or fraudulent practice is used by the other party either to induce the mistake of law or to prevent its correction, shall not authorize the intervention of equity.

Appellee's attorney with the intent to bring fraud upon the court drafted this order in a fashion to cause confusion and to deprive the appellant Tanenankhaha Andrews and Morison Outreach, trustees rights and trust property in the name and misuse of Georgia law. Appellant Morison Outreach, co-trustee is a valid legal entity formed under the laws of the **State of Washington UBI Number 602-942-511** as a nonprofit (See **Exhibit Certificate of Incorporation and IRS EIN Letter, Last Page**) and is authorized under [O.C.G.A. 53-12-321](#) Foreign Entities acting as trustees (a) (2) and by definition under [O.C.G.A. 53-12-2 \(4\) \(B\)](#) and according to Georgia law restrictions are place on corporate fiduciaries under [O.C.G.A. 7-1-242 \(a\) \(8\) \(b\) \(1\) \(2\)](#) and the appellant Morison Outreach, trustee was acting in its fiduciary capacity at all times under the law before it was deprived of its rights and trust property by the appellee's fraudulent claims against appellant Kaiser Ford.

\*10 Under [O.C.G.A. 7-1-242 \(a\) \(8\) \(1\) \(2\)](#) appellant Morison Outreach and Tanenankhaha Andrews, trustees had real estate conveyed over by the appellant Kaiser Ford acting in his fiduciary capacity via a power attorney appointment from the appellee under [O.C.G.A. 11-3-307 \(a\) \(1\) \(2\)](#) in the form of a fiduciary warranty deed. (**R-05 Exhibit C**). The grantee is appellant Morison Outreach as a trust, the appellee's argument is that this does not classify the appellant Morison Outreach as a trustee and claims in law that the appellee is entitled to equitable relief such as to set aside the deeds based on that claim of an amendable typographical error, in which does not render the deeds void thereby not authorizing them to be set aside. The failure of the



appellee's attorney's due diligence and speculation that the grantee's status on the fiduciary deeds was in name only and assumed that it did not represent a legally formed entity authorized to hold title in the State of Georgia which caused liability to be onto the court when an order was issued based on this hear-say evidence. The appellee attorney could have easily confirmed the legal status of appellant Morison Outreach via Internet search engine and the information was readily available, but chose to defraud and deprive the trial court of this information so it could not properly rule.

Fraud upon the court "is fraud which is directed to the judicial machinery itself" [H.K. Porter Co., Inc. v. Goodyear Tire & Rubber Co., 536 F.2d 1115 \(6th Cir.\)](#). "Since attorney's are officers of the court, their conduct, if dishonest would constitute fraud on the court" [Porter, 536 F.2d at 1119](#). Additionally the court stated with \*11 ample support in the record that: it appears clearly and convincingly from all of the circumstances of the litigation as they now appear, and I find, that one or more of defendant's attorneys knowingly participated in a program for the concealment from the Court of facts which he or they knew or in good conscience should have known the Court was entitled to have placed before it in order properly to rule upon the determinative issues of the case.

### **Trial Court Finding of Fact: In support of Error 1**

b) Reviewed under clearly erroneous standard. [City of McDonough v. Tusk Partners, 268 Ga. 693,696 \(492 SE2d 206\) \(1997\)](#). The trial court based its finding on hearsay, speculation, fraudulent misrepresentation by the appellee's attorney, erroneous standards and no state or case law supporting precedent.

### **Question of law: In support of Error 1**

c) De novo or independent review on appeal. Since no deference is owed to the trial court's ruling the "plain legal error" standard of review is applied. [Suarez v. Halbert, 246 Ga. App. 822, 824 \(1\) \(543 SE2d 733\) \(2003\)](#). The standard of review is whether the appellee's motion for summary judgment (**R-160**) is to be reversed immediately before the appellee's adopted daughter commercially gains by disposing of the trust property against the terms of the trust. The trial court has not demonstrated or applied any law that shows an alleged typographical error in a writing such as the fiduciary warranty deeds in this case constitute a fatal defect \*12 rendering an entire deed invalid and eligible to be set aside as an apparent ground for equitable relief in contradiction to [Georgia Code Title 23 Chapter 2 Articles 1-7](#).

### **4. Due Process of Law: Trial Court Error Section III Part 2 Error 2**

The trial court violated due process of law. Refusing to rule on appellant's Tanenankhaha Andrews and Morison Outreach, trustees motion to dismiss for lack of jurisdiction (R-69) allowed the appellee to gain an unfair advantage that ultimately lead the signing of the appellee's order for summary judgment and this was a direct due process violation. The fundamental idea of due process is notice and opportunity to be heard and as stated in [Citizens & c. Bank v. Maddox, \\*fn14](#) "the benefit of notice and a hearing before judgment is not a matter of grace, but is one of right. "A party's cause of action is a property interest that cannot be denied without due process, (cit.)." [In RE: Law Suits of Anthony J. Carter \(two cases\) 235 Ga. App. 551, 510 S.E.2d 91, \(1998\)](#) it was held: "As stated in paragraph 12 of the Georgia Bill of Rights, a person 14 has a right to represent himself or herself in court.... Secondly, the very first provision of the Bill of Rights in "the constitution of this state guarantees to all persons due process of law and unfettered access to the courts of this state. (Cit. These fundamental constitutional rights require that every party... the opportunity to be heard and to present his claim or defense, i.e., to have his day in court. (Cits.) "So it is that meaningful access to the courts must be scrupulously guarded, as it is a constitutional right universally respected where the rule of law governs. (Cits.) The record clearly shows that the trial court failed to rule on the \*13 appellant Tanenankhaha Andrews and Morison Outreach, trustees Motion to dismiss for lack of jurisdiction and gave preferred treatment to the appellee's motions without hesitation. Appellant Tanenankhaha Andrews and Morison Outreach, trustees motion to dismiss clearly establishes along with the appellee's original complaint as a reference that no direct or viable claim was made against the appellant Tanenankhaha Andrews and Morison Outreach, trustees or any proof of process service.

The appellee's attorney through hearsay, speculation, unsupported evidence and not personal knowledge attempted to link appellant Kaiser Ford as a trustee for Morison Outreach. Appellant's Tanenankhaha Andrews and Morison Outreach, trustees filed an affidavit of non-trustee/beneficiary status of Kaiser Ford (R-66) rebutting that presumption in accordance with [O.C.G.A. 24-4-21](#). That was the only link the appellee's attorney had to use to link Morison Outreach to the complaint. Once that link was severed no claim or rebuttal of the affidavit ever materialized in the record against the appellant Tanenankhaha Andrews and Morison Outreach, trustees.

First, the trial court never obtained jurisdiction over the appellant Tanenankhaha Andrews and Morison Outreach, trustees because no valid claim was properly plead and there was no grounds for equitable relief. Second, the appellee's attorney claimed the court jurisdiction over the appellants by a way of [O.C.G.A. § 9-10-91](#) which is misapplied negligently. The appellants were either appointed as a power of attorney or grantees to fiduciary warrant deeds as fiduciaries and that authority is derived from [O.C.G.A. 53-12-322](#), [O.C.G.A. 53-12-321 \(a\) \(1\) \(2\)](#) and [\\*14 O.C.G.A. 7-1-242 \(a\) \(8\) \(b\) \(1\) \(2\)](#) so jurisdiction was never established because there is no viable complaint of an alleged breach of fiduciary duty against the appellants in the pleadings and therefore equitable relief was not authorized pursuant [O.C.G.A. 23-2-29](#) and [O.C.G.A. 23-2-27](#) and under [O.C.G.A. § 9-11-12 \(b\)](#) provides that an action can be dismissed upon the merits where the complaint fails to state a claim upon which relief can be granted...

Appellee's complaint was completely directed towards appellant Kaiser Ford and the alleged breach of fiduciary duty, fraudulently transferring property secretly under a power of attorney (R-05) that the appellee's attorney with intent to interfere, prejudice and defraud the court stated that the power of attorney (**R-05 Exhibit A**) was limited to just paying the appellee's bills. A simple standard of review of the power of attorney will show that the appellee and her husband gave full authority to act in their stead. Appellee was coerced into filing this fraudulent claim to contradict the appellee's previous acts of securing her property from the grasp of her **abusive** adopted daughter. There is no doubt from the record that all rebuttable presumptions have been rebutted and supported with indisputable evidence that the appellee orchestrated the whole transaction to secure her real estate through her nephew appellant Kaiser Ford by power of attorney to Morison Outreach trustee so her adopted daughter could not swindle her out of her property and sell it. The appellee beat her adopted daughter to the punch and now the adopted daughter is retaliating **\*15** through the appellee via duress to obtain equitable relief on an unsupported complaint in this suit.

Appellants can state that appellee's attorney had gained full knowledge of the perjured statements in the pleadings and instead of correcting them he sought to take depositions to preserve testimony. Standard review of the record will show that the appellee's original pleadings contained perjurious statements and the appellee's attorney sought to cover this up and did not report this matter to the court. Further reviews will show that when the appellee's attorney moved for summary judgment (R-106) none of the original claims from the original complaint (R-05) such as breach of fiduciary duty, fraudulent transfer of real property or even the allegations of mistake were not addressed, supporting the appellant's claim that the appellee's attorney had knowledge of the complaint's falsity, but sought to defraud the court with a non equitable claim in the motion for summary judgment instead of just dismissing case. Further, a standard of review is required in regards to personal jurisdiction because appellant Kaiser Ford challenged jurisdiction by special appearance and waived no rights through any general appearance. The appellee's attorney via [O.C.G.A. 9-10-91](#) claimed personal jurisdiction claiming that business was transacted by obtaining a power of attorney. This is misapplied, as this law does not apply to fiduciaries because fiduciaries are appointed and the appellant Kaiser Ford authority to act through the power of attorney is governed under [O.C.G.A. 53- \\*16 12-2 \(6\) \(7\)](#) in conjunction with [O.C.G.A. 53-12-322](#) and this should be reviewed if the trial court even considered this before its ruling.

A judgment is void if the rendering court acted in a manner inconsistent with due process. **“Wright & Miller, Federal Practice and Procedure § 2862.**

##### **5. Failure to Provide Rulings:** Trial Court Error Section III Part 2 Error 3

[Uniform Superior Court Rule 6.2](#) allows (30) days for responding to a motion. Judges are to “decide promptly on a motion of any nature” the “Judge then has a duty to file with the clerk, and “notify” the parties of the ruling. The multiple judges in this



case failed in their duty and refused to rule on any of the appellant's motions. Refusals and failures to abide by **U.S.C.R. 6.2** is "grounds for impeachment" and "removal" from office. The appellants did not receive any notice of hindrance to prevent a ruling and did not agree to extend any time in regards to any pending motion as evidenced by the record to give the appellants an opportunity to appeal. It has been long standing in Georgia that a Court's failure to notify the losing party of its Ruling is grounds to set aside the judgment under **O.C.G.A. §5-6-21(c): Andrus v. Andrus, 659 S.E.2d 793, 290 Ga.App. 394 (Ga.App. 03/20/2008)** held: At [13]: "We are guided by our opinion in **Carnes Brothers v. Cox, 243 Ga. App. 863 (534 SE2d 547) (2000)**...In **Carnes Brothers**, we found that a trial court's failure to comply with the requirement of **OCGA § 15-6-21 (c)**, that it provide counsel with notice of its orders, provides justification for the trial court to later set aside such an order under **OCGA § 9-11-60 (g)**\*fn3. **Id. at 864...** it \*17 failed to comply with **OCGA § 15-6-21 (c)**. As a result, we affirm... vacating its... order." It has long been held that the Court must provide the losing party with the Ruling so that they can Appeal. This Court has repeatedly sent the message that "the notice requirement applies to final judgments as well as decisions on motions."

#### **6. Denial, Tampering with and Hindering the Appellant's Right to Appeal:** Trial Court Error Section III Part 2 Error 3

A standard review that the trial court failed to rule on appellants motion and violated the appellant's right to equal protection and due process under the law and prohibited the appellant's ability and opportunity to be heard and ultimately were denied access to the appellate process by the trial court withholding its rulings on the motions. The trial court refused to provide rulings in effect the trial court "suppressed appeal documents", "thereby making it impossible for the appellant's to appeal," clearly suppression and outright denials of an appeal are direct "violations of the equal protection clause of the Fourteenth Amendment" **Cochran v. Kansas, et., al., 62 S. Ct. 1068, 316 U.S. 255 (U.S. 05/11/1942)** holding that "The State properly concedes that if the alleged facts pertaining to suppression of Cochran's appeal were disclosed as true before the Supreme Court of Kansas, there would be no question but that there was a violation of the equal protection clause of the Fourteenth Amendment." "In this Court, the State admits, as it must, that a discriminatory denial of the statutory right of appeal is a violation of the Equal Protection Clause of the Fourteenth Amendment." \*18 **Cochran v. Kansas, 316 U. S. 255**. The United States Supreme Court, in **Cochran v. Kansas, et., al.**, reversed and remanded, Mr. Justice Black delivered the opinion of the Court and speaking of suppression of appeal documents and Appeals: **Cochran v. Kansas, et., al., 62 S. Ct. 1068, 316 U.S. 255, 86 L. Ed. 1453, 1942 SCT. 40529 (U.S. 05/11/1942)** at [17]: "The state properly concedes that if...suppression of Cochran's appeal "were disclosed as being true...there would be no questions but there was a violation of the equal protection clause of the Fourteenth Amendment." "...refused him privileges of appeal which it afforded to others..."

### **V. Conclusion**

The appellants in this matter have not breached any fiduciary duty to the appellee and the trial court judgment order is a gross miscarriage of justice. The court failed in its duty and failed to protect the appellant's and the appellee when evidence was submitted within the pleadings notifying the court of perjurious testimony by duress and coercion.

WHEREFORE, Appellant's Tanenankhaha Andrews and Morison Outreach, trustees request this honorable court to void the trial court judgment and dismiss the complaint for all reasons stated above including for lack of jurisdiction as a matter of law, the trial court's failure to rule and failure to state a claim and instruct the trial court to issue the necessary orders that will correct the records in regards to the real property records or any other such orders deemed necessary to receive compensation if the property subject to this complaint has been sold or any \*19 other commercial compensation has been received through the appellee's estate or her adopted daughter.

WHEREFORE, Appellant Kaiser Ford request this honorable court additionally dismiss this complaint for all reasons stated above including lack of jurisdiction, the trial court's failure to rule as well as failure to state of claim pursuant **O.C.G.A. § 9-11-12 (b) (6)** provides that an action can be dismissed upon the merits where the complaint "fail[s] to state a claim upon which relief can be granted." Dismissal is appropriate "only where a complaint shows with certainty that the plaintiff would not be entitled to relief under any state of facts that could be proven in support of his claim." (Citation and punctuation omitted.)

**Appendix not available.**

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